

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEREMY SCHUH,

Plaintiff,

v.

Case No. 08-10482

RODNEY POLLARD, WESLEY
PRATER, DANIEL MINZEY, DAVID
SCOTT SWARTZ, PATRICK BERGETT,
RUSS CILIBRAISE, PATRICK A. HUGHES,
SHEILA BLAKNEY, SERGEANT KUNATH,
GINA JACOBS, LAURA M. GRAHAM,
DIANNA COLLINS, and RIBITSCHUN,

HONORABLE AVERN COHN

Defendants.

ORDER
DENYING MOTION FOR LEAVE TO AMEND COMPLAINT
AND
GRANTING MOTION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is proceeding pro se and in forma pauperis. Plaintiff filed a complaint, running approximately 100 paragraphs and containing several exhibits, which generally alleged that defendants violated his constitutional rights in connection with plaintiff being found guilty of a probation violation in 2004. The matter was referred to a magistrate judge for all pretrial proceedings and before whom defendants filed dispositive motions. The magistrate judge issued a report and recommendation (MJRR), recommending that all of defendants' motions be granted and the case be dismissed. Plaintiff filed objections. The Court overruled the objections, adopted the MJRR, and dismissed the case. See

Memorandum and Order filed September 15, 2009. A judgment of dismissal entered that same date.

Before the Court is plaintiff's paper styled "Motion for Leave to Amend Complaint and/or for Extension to File Notice of Appeal." Plaintiff seeks to file an amended complaint because he says he is now able to more "clearly" show that he is entitled to relief and can correct some erroneous information in the complaint regarding defendant Pollard. He also moves for an extension of time to file a notice of appeal.

The motion for leave to amend is DENIED. Not only does the motion come too late as the case is closed, plaintiff has not shown leave to amend is warranted. Plaintiff filed a complex and detailed complaint, to which defendants responded with dispositive motions. Plaintiff fully litigated the case based on the complaint.

As to plaintiff's appeal, the judgment was entered on September 15, 2009. Under the rules, plaintiff has thirty days, or until October 15, 2009, in which to file a notice of appeal. See Fed. R. App. P. 4(a)(1)(A). Thus, the appeal time has not yet run. Regardless, plaintiff has filed a motion for extension of time. The motion is GRANTED. Under the rules, the Court may grant an extension of no more than 30 days after the time for filing an appeal has expired. See Fed. R. App. P. 4(a)(5)(C). Here, the Court will extend the time for plaintiff to file a notice of appeal by fifteen (15) days. As such, plaintiff has until October 30, 2009 in which to file a notice of appeal.

SO ORDERED.

Dated: September 29, 2009

s/ Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

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Order Denying Motion for Leave to Amd Cmp, etc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to Jeremy Schuh 456902, Baraga Maximum Correctional Facility, 13924 Wadaga Rd, Baraga, MI 49908-9204 and the attorneys of record on this date, September 15, 2009, by electronic and/or ordinary mail.

s/ Julie Owens
Case Manager, (313) 234-5160